



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 12305031

Date: JUNE 9, 2021

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a public relations specialist, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will dismiss the appeal.

I. LAW

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification, as either an advanced degree professional or an individual of exceptional ability in the sciences arts or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Section 203(b) of the Act sets out this sequential framework:

- (2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –
 - (A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy,

cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of job offer –

- (i) National interest waiver. . . . the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien’s services in the sciences, arts, professions, or business be sought by an employer in the United States.

While neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).¹ *Dhanasar* states that, after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as a matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national’s proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.

The first prong, substantial merit and national importance, focuses on the specific endeavor that the foreign national proposes to undertake. The endeavor’s merit may be demonstrated in a range of areas such as business, entrepreneurialism, science, technology, culture, health, or education. In determining whether the proposed endeavor has national importance, we consider its potential prospective impact.

The second prong shifts the focus from the proposed endeavor to the foreign national. To determine whether he or she is well positioned to advance the proposed endeavor, we consider factors including, but not limited to: the individual’s education, skills, knowledge and record of success in related or similar efforts; a model or plan for future activities; any progress towards achieving the proposed endeavor; and the interest of potential customers, users, investors, or other relevant entities or individuals.

The third prong requires the petitioner to demonstrate that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. In performing this analysis, USCIS may evaluate factors such as: whether, in light of the nature of the foreign national’s qualifications or the proposed endeavor, it would be impractical either for the foreign national to secure a job offer or for the petitioner to obtain a labor certification; whether, even assuming that other qualified U.S. workers are available, the United States would still benefit from the foreign national’s contributions; and whether the national interest in the foreign national’s contributions is sufficiently urgent to warrant forgoing the labor certification process. In each case, the factor(s)

¹ In announcing this new framework, we vacated our prior precedent decision, *Matter of New York State Department of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm’r 1998) (*NYSDOT*).

considered must, taken together, indicate that on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.²

II. ANALYSIS

The Director found that the Petitioner qualifies as a member of the professions holding an advanced degree. Although the Director found substantial merit in the proposed endeavor in the field of public relations, the Director concluded that the record does not establish that the Beneficiary's endeavor has national importance. The Director also concluded the record did not satisfy the second and third *Dhanasar* prongs. For the reasons discussed below, the Petitioner has not established that a waiver of the requirement of a job offer is warranted.

The Petitioner initially described the endeavor as a plan "to continue using my expertise and knowledge in [c]ommunications." The Petitioner also provided a bullet-point list of what he asserts the endeavor would accomplish, as follows:

- U.S. job creation;
- Preparing future US [p]ublic [r]elations specialists;
- Managing the image of US companies from a public relations standpoint;
- Adding to the U.S. GDP;
- Increasing visibility of companies' brands;
- Improving brand awareness and recognition;
- Building authority and credibility in the market, generating business opportunities;
- Positioning a company as an expert in the industry; and
- Helping to prepare US companies to deal with international competition.

The Petitioner also stated, "I can share my experience with students through teaching, helping to prepare future U.S. public relations and corporate communications leaders." In response to the Director's request for evidence (RFE), the Petitioner reiterated the proposed endeavor as follows:

[M]y overall proposed endeavor in the United States is to offer my expertise in public relations and communications, including risk and crisis communications, to American companies. I will do this by prospecting employment to support public relations and communications operations of American companies, which will lead to economic growth and development in the U.S. Additionally, I will contribute my communications and public relations knowledge to the development of U.S. public relations professionals and students, by working as a [c]ommunications [p]rofessor at the [u]ndergraduate [l]evel.

In the decision, the Director concluded the record does not establish that the proposed endeavor has national importance, observing that "the [P]etitioner has not shown that his proposed endeavor in this case stands to sufficiently extend beyond an employer or students to impact the industry more broadly. Nor has the [P]etitioner shown the [P]etitioner's particular proposed endeavor may have broader implications in the public relations or communications fields." The Director further observed that "the

² See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

[P]etitioner's claims of the potential prospective impact on the broader field have not been corroborated with independent objective evidence."

On appeal, the Petitioner summarizes his expertise in public relations and his prior career accomplishments in Brazil. The Petitioner also asserts that he "has been working in the U.S. at two educational institutions, University of [redacted] and [redacted] University . . . teaching university courses in communication, as well as conducting research in crisis communications." The Petitioner also states that he "has begun pursuing his Ph.D. in [s]trategic [c]ommunications." The Petitioner asserts that his ability to speak Portuguese, Spanish, and English "can appeal to numerous foreign entities . . . to garner international attention and appreciation for U.S. market offerings[, which] is of particular national importance, especially in the modern business sphere, where globalization is leading to a rise of worldly professionals who can promote business and economic opportunities in key regions across the world." The Petitioner also discusses the field of public relations in general.

In determining national importance, the relevant question is not the importance of the industry, field, or profession in which an individual will work; instead, to assess national importance, we focus on the "specific endeavor that the foreign national proposes to undertake." See *Dhanasar*, 26 I&N Dec. at 889. *Dhanasar* provided examples of endeavors that may have national importance, as required by the first prong, having "national or even global implications within a particular field, such as those resulting from certain improved manufacturing processes or medical advances" and endeavors that have broader implications, such as "significant potential to employ U.S. workers or has other substantial positive economic effects, particularly in an economically depressed area." *Id.* at 889-90.

The proposed endeavor of teaching communication courses benefits the courses' students; however, the record does not establish how the endeavor would have broader implications in terms of significant potential to employ U.S. workers or have substantial positive economic effects, beyond the Petitioner's employing universities, as contemplated by the first *Dhanasar* prong. See *Dhanasar*, 26 I&N Dec. at 889. Petitioners bear the burden of articulating how they satisfy eligibility criteria. See section 291 of the Act, 8 U.S.C. § 1361. Similarly, the record does not establish how the proposed endeavor of working as a public communications specialist for one or more unspecified companies rises to the level of broader implications within the field, as contemplated by *Dhanasar*. See *Dhanasar*, 26 I&N Dec. at 889. Although the Petitioner's statements on appeal regarding his expertise and prior career accomplishments in Brazil address aspects of the second *Dhanasar* prong, they do not address how the proposed endeavor in the United States has broader implications beyond his immediate employer(s) and students, as required by the first *Dhanasar* prong. See *id.* Moreover, the Petitioner's focus on appeal on the field of public relations in general does not address aspects of the specific endeavor and how the performance of the planned activities under the endeavor would have broader implications, rising to the level of national importance as contemplated by *Dhanasar*. See *id.*

In summation, the Petitioner has not established that the proposed endeavor has national importance, as required by the first *Dhanasar* prong, and therefore is not eligible for a national interest waiver. We reserve our opinion regarding whether the record satisfies the second or third *Dhanasar* prong.

III. CONCLUSION

As the Petitioner has not met the requisite first prong of the *Dhanasar* analytical framework, we conclude that the Petitioner has not established eligibility for, or otherwise merits, a national interest waiver as a matter of discretion.

ORDER: The appeal is dismissed.